



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

Matthew J. Strickler
Secretary of Natural Resources

5636 Southern Boulevard, Virginia Beach, Virginia 23462
(757) 518-2000 Fax (757) 518-2009
www.deq.virginia.gov

David K. Paylor
Director

Craig R. Nicol
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO Huntington Ingalls Incorporated FOR ITS Newport News Shipbuilding Division Registration No. 60153

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Huntington Ingalls Incorporated, Newport News Shipbuilding Division, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations found by the Board. The parties to this Consent Order acknowledge that Huntington Ingalls agrees not to contest, but does not admit, that it committed the violations addressed.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Facility" means the Newport News Shipbuilding facility located at 4101 Washington Avenue in Newport News, Virginia.
6. "Huntington Ingalls" means Huntington Ingalls Incorporated, a corporation authorized to do business in Virginia. Huntington Ingalls is a "person" within the meaning of Va. Code § 10.1-1300.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "NOx" mean nitrogen oxide.
9. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
10. "PCE" means a partial compliance evaluation by DEQ staff.
11. "Permit" means a Title V Federal Operating Permit to operate natural gas-fired boilers at Newport News Shipbuilding, which was issued under the Virginia Air Pollution Control Law and the Regulations to Huntington Ingalls on May 28, 2015.
12. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
13. "TRO" means the DEQ Tidewater Regional Office located in Virginia Beach, Virginia.
14. "Va. Code" means the Code of Virginia (1950), as amended.
15. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Huntington Ingalls owns and operates the Facility in Newport News, Virginia. The Facility is the subject of a Title V Federal Operating Permit. At the Facility, there are two 145 MMBtu natural gas-fired boilers (Unit 78-E5 and Unit 78-E6). Units 78-E5 and 78-E6 are subject to the Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units requirements under 40 CFR Part 60, Subpart Db.
2. On October 19, 2017, Department staff conducted a PCE at the Facility for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the evaluation and follow-up information, Department staff made the following observations:
 - a. The average hourly and 30-day rolling average NOx emission rates for Units 78-E5 and 78-E6 were not being maintained.

- b. The semi-annual excess emission reports had not been received by DEQ for Units 78-E5 and 78-E6 for the January through June 2016, July through December 2016, and January through June 2017 monitoring periods.
3. Condition IV.F.43 of the Permit requires that Huntington Ingalls comply with the applicable testing and monitoring requirements of 40 CFR 60, Subpart Db (Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units) for each new powerhouse boiler.
4. 40 CFR § 60.46b(e)(4) states that during periods when performance tests are not requested, NOx emissions data collected pursuant to 60.48b(g)(2) are used to calculate a 30-day rolling average emission rate on a daily basis and used to prepare excess emission reports.
5. 40 CFR § 60.48b(g)(2) requires that Huntington Ingalls monitor steam generating unit operating conditions and predict NOx emission rates as specified in the plan submitted pursuant to § 60.49b(c).
6. 40 CFR § 60.49b(c) requires that Huntington Ingalls, which seeks to demonstrate compliance through the monitoring of steam generating unit operating conditions in the provisions of § 60.48b(g)(2), submit for approval a NOx Emission Predicting System Monitoring Plan that identifies operating conditions to be monitored in § 60.48b(g)(2) and the records to be maintained in § 60.49b(g).
7. Huntington Ingalls submitted a NOx Emission Predicting System Monitoring Plan as required by 40 CFR § 60.49b(c) within the required timeframe and maintains that it has been in compliance with the actions required by the Plan as required by 60.48b(g)(2).
8. 40 CFR § 60.49b(g)(2) requires that Huntington Ingalls maintain the average hourly NOx emission rates measured or predicted for each steam generating unit.
9. 40 CFR § 60.49b(g)(3) requires that Huntington Ingalls maintain the 30-day average NOx emission rates calculated at the end of each steam generating unit operating day from the measured or predicted hourly NOx emission rates for the preceding 30 steam generating unit operating days for each steam generating unit, in accordance with an approved Plan.
10. 40 CFR §§ 60.7(c) and 60.49b(h) require that Huntington Ingalls submit an excess emissions and monitoring systems performance report semiannually.
11. On January 25, 2018, based on the evaluation and follow-up information, the Department issued Notice of Violation No. ATRO000784 to Huntington Ingalls for the violations described in paragraphs C(2) through C(9), above.
12. On February 5, 2018, Huntington Ingalls submitted a written response to the NOV.

13. On February 21, 2018, Department staff met with representatives of Huntington Ingalls to discuss the violations.
14. On March 16, 2018, Huntington Ingalls submitted a written response following up on the points raised during the February 21, 2018 meeting, and continued to maintain that it has been and is in compliance with the requirements of its Plan.
15. Based on the results of the October 19, 2017 evaluation, the February 21, 2018 meeting, and the documentation submitted on October 25, 2017 and November 11, 2017, the Board concludes that Huntington Ingalls has violated Permit Condition IV.F.43 and 40 CFR §§ 60.46b(e)(4), 60.49b(c), 60.49b(g)(2)-(3), 60.7(c), and 60.49b(h), as described in paragraphs C(2) through C(9), above.
16. Huntington Ingalls has submitted documentation that verifies that the violations described in paragraphs C(2) and C(9), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Huntington Ingalls, and Huntington Ingalls agrees in the interest of settlement and in avoidance of the expense of litigation to pay a civil charge of \$14,266 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Huntington Ingalls shall include its Federal Employer Identification Number (FEIN) _____ with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Huntington Ingalls shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Huntington Ingalls for good cause shown by Huntington Ingalls, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. ATRO000784 dated January 25, 2018. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Huntington Ingalls admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
4. Huntington Ingalls consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Huntington Ingalls declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Huntington Ingalls to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Huntington Ingalls shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Huntington Ingalls shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Huntington Ingalls shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.


- 9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Huntington Ingalls. Nevertheless, Huntington Ingalls agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Huntington Ingalls has completed all of the requirements of the Order;
 - b. Huntington Ingalls petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Huntington Ingalls.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Huntington Ingalls from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. The undersigned representative of Huntington Ingalls certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Huntington Ingalls to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Huntington Ingalls.
- 13. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

14. By its signature below, Huntington Ingalls, for the purposes of settlement, voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 11 day of JUNE, 2018.



Craig R. Nicol, Regional Director
Department of Environmental Quality

Huntington Ingalls Incorporated voluntarily agrees to the issuance of this Order.

Date: 4 Jun 2018 By: Dru Branche

Dru Branche
Director, Environmental, Health and Safety
Huntington Ingalls Incorporated,
Newport News Shipbuilding Division

Commonwealth of Virginia
City/County of Newport News

The foregoing document was signed and acknowledged before me this 4th day of June, 2018, by Dru Branche who is Director, EH+S of Huntington Ingalls Incorporated, on behalf of the corporation.



Notary Public

764 8853

Registration No.

My commission expires: 5/31/19

Notary seal:

